

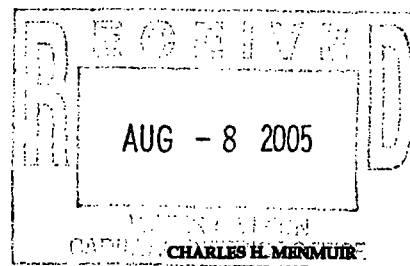
WRS
G.T. 10

**ZIMMERMAN, KUHN, DARLING, BOYD, TAYLOR AND QUANDT, PLC
LAW OFFICES**

**412 SOUTH UNION STREET
P.O. BOX 987
TRAVERSE CITY, MICHIGAN 49685-0987
TELEPHONE 231-941-5000
FACSIMILE 231-941-5154**

**JOSEPH J. ZIMMERMAN
R. EDWARD KUHN
A. BROOKS DARLING
JAMES W. BOYD
DENNIS K. TAYLOR
JOSEPH E. QUANDT
ERIC W. PHELPS
JULIE A. HARRISON
GINA A. BOZZER
MICHAEL J. LONG
GREGORY J. DONAHUE
JENNIFER R. BERRY**

**Lansing Office:
3130 Pine Tree Road
Lansing, MI 48911
Telephone 517-394-1180
Facsimile 517-393-1791**



**Of Counsel:
LEWIS G. GATCH**

August 5, 2005

VIA OVERNIGHT UPS

**Mr. Richard A. Powers, Chief
Water Bureau
Michigan Dept of Environmental Quality
P.O. Box 30273
Lansing, MI 48909**

**Re: Williamsburg Receiving and Storage, LLC
WMD Order No. 31-07-02**

Dear Mr. Powers:

I am in receipt of your correspondence of July 25, 2005. Please be advised that your correspondence was not received by my client until August 1, 2005, which is the date that you requested a response. A copy of the postal service delivery documentation is attached as Exhibit A. My client immediately forwarded your letter to my office on August 1, 2005. I was out of state attending a mediation on August 1, 2005, and I tried to contact you on the morning of August 2, 2005, to request a minor extension to respond to the requests of your July 25, 2005, letter. Mr. Barry Selden graciously extended a response time to August 8, 2005. We greatly appreciate the extension of that courtesy.

To respond to the substance of your letter, I will try to be responsive to the issues in the order in which you addressed them in your July 25, 2005, correspondence.

First, the point raised in your letter which is numbered 1.(a)(b) and (c), appear to indicate observations of your staff and others and do not appear to require a response.

The second issue raised by your letter under number 2., indicates observations of your staff and others related to alleged nuisance odors. My client is aware of the complaints of nuisance odor

COPY

**ZIMMERMAN, KUHN, DARLING,
BOYD, TAYLOR AND QUANDT, PLC**

August 5, 2005

Page 2

and has, accordingly, purchased a manufactured membrane cover for the lagoon in order to eliminate any further nuisance odor from the lagoon. Please be advised that some of the nuisance odor reports which the Department has received are repetitive reports from a few WRS neighbors who have stated that it is their specific mission to force my client to close their operations. They have indicated their willingness to harass your staff and other authorities until their stated objective is accomplished. These complaints are made day and night and we believe are made maliciously and frequently without any foundation. In fact, it is my understanding that the local sheriff's department has visited the facility as a result of some of these complaints and has found no basis to make a nuisance report related to those complaints. My point here is not that odors do not exist from time to time but that the intensity and frequency is exaggerated based upon the stated goal of others to force my client out of business. A copy of a letter circulated by the neighbors is attached as Exhibit B.

With respect to the issues raised in point number 3 of your correspondence, I do not believe that your allegation that placing process wastewater into brine pits is a violation of the ACO is accurate. Specifically, so long as process wastewater is not discharged into waters of the state, the storage of wastewater may not be regulated in the form and manner which you allege. Further, the requirement under the ACO to place process wastewater in "sealed tanks to prevent odors" was for exactly that purpose, *to prevent odors*. As you know, the brine pits are sealed to prevent odors. Thus, we believe that the spirit and intent of the ACO has been complied with. Nonetheless, my client recognizes that it simply does not make operational sense to continue to fill brine pits with process wastewater and, thus, has halted that process. Process wastewater is now being containerized in sealed above ground tanks pending approval of a recent proposal for dilution and discharge of this wastewater. We have submitted to your permits and enforcement staff last week, a technical proposal for how this can be accomplished. We are sincerely hopeful that approval can be obtained as soon as possible; otherwise, the plant will be forced to close and over fifty local jobs will be lost.

With respect to issue number 4 in your correspondence, the failure to request reauthorization of the current storm water permit was a regrettable oversight and is currently being addressed. No process wastewater will be discharged to storm water retention areas.

On page 3 of your correspondence, you list seven items which must receive immediate attention and commitment from WRS. I will respond to each of these items in the order in which you present them.

1. MDEQ Request: Cease all unauthorized discharges of process wastewater to the ground and ground water.

**ZIMMERMAN, KUHN, DARLING,
BOYD, TAYLOR AND QUANDT, PLC**

August 5, 2005

Page 3

WRS Response: All unauthorized discharges of process wastewater to the ground and groundwater have ceased.

2. MDEQ Request: Cease the placement of process wastewater in brine pits and lawfully dispose of all accumulated wastewater. WRS must resume the placement of all process wastewater in sealed tank and transport and dispose of all process wastewater in accordance with paragraph 4.1b(1)(i) of the ACO.

WRS Response: WRS has ceased the placement of process wastewater in brine pits and is placing process wastewater in sealed tanks. As I referenced above, WRS has proposed to your permits and enforcement staff a plan for the interim treatment of process wastewater. A copy of that cover letter and technical proposal is attached to this letter as Exhibit C. We hope that you can quickly act upon this request, as the plant will soon have to shut down if there is no resolution to this issue. The treatment and disposal of all process wastewater will be conducted consistent with any approved MDEQ plan.

3. MDEQ Request: Implement measures to eliminate nuisance odors.

WRS Response: WRS has covered all of the brine pits which contain process wastewater and has, likewise, covered the wastewater lagoon to prevent any further nuisance odors. It is WRS' intent to close each brine pit by diluting the wastewater contained therein and treating/discharging the water consistent with the technical proposal attached.

4. MDEQ Request: Close the wastewater storage lagoon in accordance with Rule 323.2226 of the NREPA.

WRS Response: My client has responded to this request through my correspondence dated July 18, 2005, a copy of which I am attaching as Exhibit D to this response. Once again, my client intends to add sufficient dilution water through a batching process so that wastewater in the storage lagoon is batched with fresh dilution water into a tank, characterized, and then disposed of consistent with the technical proposal attached as Exhibit C.

5. MDEQ Request: Promptly submit an application for a National Pollutant Discharge Elimination System Storm Water Permit. Any discharge of storm water prior to obtaining a permit will be in violation of Part 31 of the NREPA. Until a new permit is obtained, WRS should, at a minimum, comply with its existing storm water pollution prevention plan.

**ZIMMERMAN, KUHN, DARLING,
BOYD, TAYLOR AND QUANDT, PLC**

August 5, 2005

Page 4

WRS Response: As referenced above, WRS is in the process of amending and will resubmit requests for authorization and permit as required under Part 31.

6. MDEQ Request: Remove all process wastewater from storm water basins, properly manage brine transfers using secondary containment, and isolate all waste stored on site from precipitation.

WRS Response: It is anticipated that each of these items will be addressed as part of the storm water pollution prevention plan amendments and request for permit.

7. MDEQ Request: Submit a work plan to investigate and determine any adverse impacts to soils and groundwater caused by the unauthorized discharges to the ground and groundwater and to the storm water basins.

WRS Response: WRS shall provide a work plan for the investigation and determination of any adverse impacts pursuant to your request and will submit this work plan on or before September 1, 2005.

Finally, your letter indicates that my client must submit documentation that each of the numerated action items referenced above has been completed. Candidly, some of the items which you reference in items 1 through 7 are impossible to complete. All of those items which are capable of completion with reasonable diligence have been completed. We have indicated that a plan is in place to lawfully dispose of process wastewaters currently stored on site and which will be generated in the future pursuant to the attached technical proposal. My client is diligently working on appropriate amendment of the storm water plan and will submit that prior to September 1, 2005. Immediately closing the wastewater lagoon, with approximately two million gallons of water contained therein, is simply impossible. A previous plan was submitted to the Department in my July 18, 2005, correspondence, and was never responded to by Department staff. We are hopeful that the Department will consider the dire circumstances this plant is in and will allow the gradual closure of the wastewater lagoon pursuant to the plan articulated above and in my July 18, 2005, correspondence.

You then request that WRS enter into an enforceable agreement no later than September 1, 2005, to perform the identified actions. My client has no problem entering into an enforceable agreement with the Department to accomplish the identified actions. However, this sentence seems to be in contradiction of the previous request in your letter that all of the identified actions be completed by August 1, 2005. I can tell you that it is our intent to enter into an enforceable

**ZIMMERMAN, KUHN, DARLING,
BOYD, TAYLOR AND QUANDT, PLC**

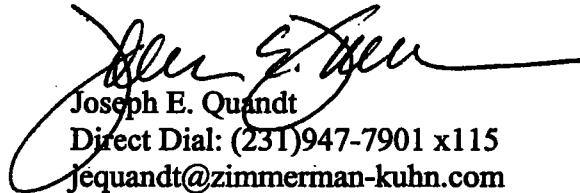
August 5, 2005
Page 5

agreement to accomplish all of these environmental objectives; however, my client can simply not continue to operate without some discharge capacity. I would implore you to engage your permit staff in a review of the enclosed technical proposal which will allow the discharge of process wastewaters in a way which will not create any adverse environmental impact or nuisance odors. As soon as we have that approval, we can then move on to accomplishing the other compliance objectives referenced in your letter of July 25.

Of course, I am sure you will have some additional questions or comments after your review of this correspondence; accordingly, please feel free to contact me with any questions or comments which you may have.

Sincerely,

**ZIMMERMAN, KUHN, DARLING,
BOYD, TAYLOR AND QUANDT, PLC**



Joseph E. Quandt
Direct Dial: (231)947-7901 x115
jequandt@zimmerman-kuhn.com

JEQ:shp

cc: Chris Hubbell
Brian Smith
Mr. Barry H. Selden
Mr. Rick Rusz
Mr. James Janiczek
Mr. Thomas Weston
Ms. Janice Heuer